

NASHUA CITY PLANNING BOARD
January 12, 2017

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, January 12, 2017 at 7:00 PM in the 3rd floor auditorium in City Hall.

Members Present: Adam Varley, Chair
Mike Pedersen, Mayor's Rep.
Scott LeClair, Vice Chair
Dan Kelly, Secretary
Steve Dookran, City Eng.
Dave Robbins
Ed Weber
Gerry Reppucci

Also Present: Roger Houston, Planning Director
Linda Panny, Deputy Planning Manager
Scott McPhie, Planner I

Approval of Minutes

December 1, 2016

Mr. Dookran said on page 14, the phrase "width and sidewalks" should be added to approval stipulation #1. Mr. Weber specified that the waiver be specifically for the width of the street and sidewalks.

MOTION by Mr. Robbins to approve the minutes of December 1, 2016, as amended.

SECONDED by Mr. LeClair

MOTION CARRIED 5-0-3

COMMUNICATIONS

Mr. Houston went over the following items that were received after the mailing went out:

- Staff report for Case #1
- Letter from Richard Mayou of 7 Langholm Dr. regarding Case #1

- Communications from Jeanne Walker, Engineering, Wayne Husband, Traffic, and Daniel Teague, Office of the Fire Marshall, regarding Case #3
- Excerpt from Land Use Code re: building design
- Communications and letters from various abutters: Samuel Kouchalakos of 9 Danbury Rd., Mark & Angela Littlefield of 120 Manchester St., Holly Countie of 1 Edith Ave., Michael & Kathleen Zagrodny of 11 Danbury Rd., Traci & Andrew Johnson of 3 Edith Ave., Mary & John Bianchi of 7 Danbury Rd., Joseph Natalino of 109 Manchester St., Gary & Brenda Wingate of 15 Sherman St., and Ian Atwell of 118 Manchester St. regarding Case #3.
- Letter from Attorney Jocelyn Beiswenger regarding Case #3, who represents some of the abutters with concerns how the site plan proposed does not satisfy the Planning Board criteria.

REPORT OF CHAIR, COMMITTEE & LIASON

NRPC: Mr. Kelly said he missed the last meeting. He said he resigned from the Executive Committee, but will stay on as liaison to the Planning Board.

CIC: Mr. Kelly said they held the first of two meetings this month. They asked each Department to identify their #1 priority, which is working well. They have heard five reports so far. The next meeting is on January 23; at that time, they will rank and prioritize.

HDC: Mr. Weber said the HDC had a meeting on December 12. A project at 7 Amherst St was approved; a contractor will be bringing the property back to its original state and creating a single family home.

PROCEDURES OF THE MEETING

Mr. Varley went into the procedure of the meeting as follows: After the legal notice of each conditional, special use permit, site plan or subdivision plan is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction. The public hearing will begin at which time the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with

recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant or staff.

The Chair will then ask for testimony from the audience. First anyone wishing to speak in opposition or with concern to the plan may speak. Please come forward to the microphone, state their name and address for the record. This would be the time to ask questions they may have regarding the plan. Next public testimony will come from anyone wishing to speak in favor of the plan. The applicant will then be allowed a rebuttal period at which time they shall speak to any issues or concerns raised by prior public testimony.

One public member will then be granted an opportunity to speak to those issues brought by the applicant during their rebuttal period. The Board will then ask any relevant follow-up questions of the applicant if need be.

After this is completed the public hearing will end and the Board will resume the public meeting at which time the Board will deliberate and vote on the application before us. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said.

Above all, the Board wants to be fair to everyone and make the best possible decision based on the testimony presented and all applicable approval criteria established in the Nashua Revised Ordinances for conditional, special use permits, site plans and subdivisions. Thank you for your interest and courteous attention. Please turn off your cell phones and pagers at this time.

OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

NEW BUSINESS - SUBDIVISION PLANS

1. Loretta Thompson (Owner) Geoff Lynch (Applicant) - Application and acceptance of proposed lot line relocation plan. Property is located at 78 Langholm Drive and "L" Tenby Drive. Sheet C - Lot 497 & Sheet B, Lot 1356. Zoned "R9" Suburban Residence. Ward 9.

MOTION by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. LeClair

MOTION CARRIED 8-0

Steve Auger, Hayner/Swanson, Inc.

Mr. Auger introduced himself as representing the applicant. He gave an overview of the proposal. The lot line relocation will transfer 2,217 square feet of land from 78 Langholm Dr. to "L" Tenby Dr. The applicant is requesting a waiver from section 190-282(B)(9), of the Land Use Code, regarding the requirement to show existing conditions of the plan. The abutter of 76 Langholm Dr. submitted a letter with concerns regarding stormwater draining on to his lot from the potential house on Tenby Dr. The topography in this area slopes downhill. As 76 Langholm Dr. is north of the Tenby lot and on the other side of the street, any site grading that results from building a new house will not have any impact on his property.

Mr. Varley asked if the applicant was conformable with Jeanne Walker's request that documentation be provided regarding proposed impacts on stormwater prior to construction.

Mr. Pedersen asked why the abutter would have concerns about water draining onto his property.

Mr. Kelly said the abutter's letter indicated there are existing drainage issues on his property.

Mr. LeClair said the letter indicated an in ground pool had been filled in at 78 Langholm Dr., which may attribute to the issue.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. Dookran said drainage is a common problem among neighboring properties, and it is a difficult problem to address.

Mr. Varley said if they had evidence that this proposal was going to exacerbate the situation, then the applicant would have a responsibility to address this. However, the testimony given suggests that there will be no impact.

Mr. Pedersen said the abutter's letter never indicates that water from the lot on Tenby Dr. runs into his lot.

MOTION by Mr. LeClair to approve New Business - Subdivision Plan #1. It conforms to § 190-138(G) with the following stipulations and waivers:

1. The request for a waiver of § 190-282(B)(9), which requires an existing conditions plan, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. Prior to the issuance of a building permit, all comments in Jeanne Walker, P.E., letter dated December 15, 2016 shall be addressed to the satisfaction of the Engineering Department.

SECONDED by Mr. Robbins

MOTION CARRIED 8-0

NEW BUSINESS - SITE PLANS

2. Nashua Development Co. (Owner) - Application and acceptance of proposed amendment to NR 1913 to show sport center and pro shop improvements at the Nashua Country Club. Property is located at 25 Fairway Street. Sheet 116 - Lot 1. Zoned "R9" Suburban Residence. Ward 7.

Mr. Weber recused himself. He said he has a working relationship with the Nashua Country Club.

MOTION by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Kelly

MOTION CARRIED 7-0

Jim Petropulos, Hayner/Swanson, Inc.

Mr. Petropulos introduced himself as representing the applicant. He said David Scaer, General Manager of the Nashua Country Club, was also present. They are proposing to rebuild two existing buildings on the property. Both buildings are dated and are beyond salvage. The new facilities will be built essentially in the same location. Due to utility connections and construction, they will be rebuilding some of the parking areas immediately around the facilities. There is little to no increase to impervious surface because of the proposed construction. The buildings will have a similar aesthetic to the existing buildings on site. The applicant hopes to begin construction on April 1 and complete it by Thanksgiving. Two special exceptions were granted by the Zoning Board to expand a nonconforming use and to work within a 40-foot wetland buffer. The applicant is requesting one waiver from Section 190-279(B)(E), which waives certain survey requirements.

Mr. LeClair asked if the expansion of the curling rink would cut down on parking.

Mr. Petropulos said there would be about a 14-space reduction in parking. Mr. Scaer now asks employees to park in a gravel lot near the greens during peak times.

Mr. LeClair asked if those upgrades to the parking policy were recent.

Mr. Petropulos said yes, within the last couple of years.

Mr. Dookran said the circulation of traffic onsite is incorrect. Why are they not using this opportunity to correct it?

Mr. Petropulos said traffic currently circulates clockwise. They looked into a counter-clockwise circulation pattern but that would result in 10-15 less parking spaces.

Mr. Dookran asked if there are any other issues within the parcel regarding easements.

Mr. Petropulos said no. His company has been representing the club for over 45 years. He said he knows there are easements but they are not aware of any boundary issues.

Mr. Pedersen asked if the curling rink has its own refrigeration system.

Mr. Petropulos said the rink has a full system. Right now, the rink is so old that they cannot get the ice right.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

Ed Weber, 4 Cabernet Ct

Mr. Weber says he fixes members' golf clubs. He visits the club often and has never had an issue with parking. He commends that the new buildings will stay in character with existing architecture.

MOTION by Mr. LeClair to approve New Business - Site Plan #2. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-279(B)(E), which waives the survey requirements for the site, is granted.
2. All Zoning Board of Adjustment conditions of approval are incorporated herein and made part of this approval.
3. Prior to the Chair signing the plan a lighting plan meeting all applicable City of Nashua Land Use Ordinance requirements, will be added to the plan submission/set.
4. Prior to the issuance of a building permit, minor drafting changes shall be made to the plan.
5. Prior to the issuance of a certificate of occupancy, all site improvements shall be completed.

SECONDED by Mr. Robbins

MOTION CARRIED 7-0

3. Diane E. Gimber and Bishop Real Estate Management, Inc. (Owners). Granite Green Investment Partners. (Applicant) - Application and acceptance of proposed 18-Unit Age Restricted Housing Condominium Site Plan development. Property is located at 122 Manchester Street. Sheet 59 - Lot 135. Zoned "RA" Urban Residence. Ward 2. **(Postponed from the December 1, 2016 Meeting)**

Mr. Varley said counselors for both parties wished to speak.

Attorney John Sokul, Hinckley Allen

Mr. Sokul introduced himself. He said he is counsel for the applicant. He said he expects to speak but does not have anything to say in advance.

Mr. Varley said there is a pending appeal from a decision of a City administrative officer, Carter Falk, as to a zoning matter, specifically as to whether the application meets the criteria in the ordinance to constitute elderly housing. His understanding is that the initial decision of the administrative officer was that a variance was required. That position was not appealed and was reversed, to indicate that the application does meet the requirements and no variance is required. Several abutters have since appealed that decision of the administrative officer. The question, before the Board takes jurisdiction, is whether the Board thinks it is appropriate to consider this application prior to a decision on that pending appeal.

Mr. Sokul said what Mr. Varley recited is essentially accurate. The original determination from Mr. Falk on the zoning issue was that the applicant had not submitted sufficient information to allow him to conclude that the project did in fact meet the elderly housing requirements. That left the applicant with needing a variance, or, submitting additional information that demonstrated that the proposal did in fact comply, which they did, and Mr. Falk said therefore the project did not require a variance. Some of the abutters have appealed that determination and it is scheduled for a hearing before the ZBA on January 24th. That appeal is governed by RSA 676:6, which says the effect of an appeal to the Board, which means the appeal of an administrative decision to the Zoning Board of Adjustment, shall be to maintain the status quo. An appeal of the issuance of any permit or certificate shall be deemed to suspend such permit or certificate and no construction, alteration or change of use, which is contingent upon it, shall be commenced. That doesn't

apply here because no permit or certificate has been issued. The next sentence in that RSA says an appeal of any order or other enforcement action shall stay all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after notice, etc. That sentence of the RSA doesn't apply because there is no appeal of an order or other enforcement action. So the sentence that applies is that the effect of an appeal to the Board shall be to maintain the status quo, which is obviously different from an automatic stay as discussed in the third sentence. In our view, the status quo is being maintained; there is no construction on the property and none will begin until the Zoning Board issue is resolved. He thinks the Board is well within their rights to, and should, proceed with the hearing tonight.

Mr. Varley asked if counsel to the appealing abutters was present, and if so, whether she would like to speak to this issue.

Attorney Jocelyn Beiswenger, Sheehan Phinney

Ms. Beiswenger introduced herself. She said the zoning appeal is pending; however, at this point in time there are a group of the abutters here and they would like to proceed with hearing the site plan application.

Mr. Varley said the question before the Board is whether they think it is appropriate to take the case. He said he tends to agree that they are within their rights to do so. It is not unusual to have as a condition that necessary approval from the zoning board be obtained prior to construction or prior to Planning Board approval taking effect. Given that there are quite a few abutters here and hearing the case has been postponed on several occasions already for various reasons, he thinks it would be appropriate for the Board to take up the case with appropriate conditions as to any other necessary approvals.

Mr. LeClair asked if the results of the appeal could potentially change the site plan. He said he does not want to go through the motions of viewing a site plan and all the details of it with the potential that it has to change.

Mr. Reppucci said it would be proper to go forward with this. The appeal has no effect until it is upheld. What will happen at the Zoning Board meeting is that they will either agree with the administrative decision, in which case everything that happens

here tonight will stay as it is. If, on the other hand, the Zoning Board reverses the administrative decision, and they are deciding whether to grant relief, they could put stipulations on their approval that might change what the Planning Board does, but that is very speculative. The right thing to do would be to move forward.

Mr. Varley said if the Zoning Board were to say that the decision of the administrative officer was incorrect, and the applicant does need relief, the Zoning Board might impose its own conditions but that does not necessarily require the Planning Board to rehear the case.

Mr. Kelly asked if the Planning Board's actions here could prejudice the decision that the Zoning Board would make.

Mr. Reppucci said it could, though it shouldn't. The downside is, if everything functioned that way, then simply making an appeal of a project would be a great hindrance to the development of projects. Everything he has read about appeals is triggered by whether or not the appeal is upheld. His opinion is that the appeal does not exist until it is upheld.

Mr. Kelly said, if the appeal is going to be heard on the 24th of January, what is the sense of urgency?

Mr. Reppucci said his opinion is that developers have the same rights as abutters do. If you could simply obstruct a project by filing an appeal, you would see a plethora of appeals brought forward just to delay things. He said there is no harm in not taking up the application, apart from delaying those who are ready to proceed.

Mr. Varley said he does not see any harm in taking up the application tonight. If the decision on the appeal could affect whether the Planning Board has jurisdiction or would require them to rehear the entire case, he would be inclined to wait. But he does not think that's the case. The worst-case scenario is that applicant would have a condition that they would have to abide by the decision of the appeal.

Mr. Robbins said the case has been postponed at least 3 times. He said he is concerned that they might prejudice another process. He said it might be better for all parties to wait until a decision is made on the appeal.

Mr. LeClair said he agrees with Mr. Robbins. He recalls a recent project that had to come back to the Board three times for review.

Mr. Reppucci said the problem is that if the Zoning Board does not uphold the appeal, the case could go to court. Would the Planning Board wait until it went through court? It would be inherently unfair to wait.

Mr. Kelly asked if the developer would go ahead with the project without all of the appeals resolved.

Mr. Reppucci said Mr. Sokul indicated this was not an option, however, developers could move forward at their own peril.

Mr. Varley asked staff, if the decision of the administrative officer was not upheld, would the variance require substantive modifications to the plans such that it would need to come back to the Planning Board after they have acted on it.

Mr. Houston said yes, if it served to amend the site plan it would have to come to the Planning Board.

Mr. LeClair said the Board has also received a lot of new information this evening. The issue here is density-based; this is also the basis of the zoning appeal.

Mr. Varley said he thinks the Board is within its rights to hear the case tonight if it so chooses. However, he does appreciate that there are legitimate concerns about not acting prematurely or in redundancy that might result in additional hearings. If they were to postpone the case until February, and the decision was made to overturn the decision of the administrative officer, the Board might wait to hear the case until the variance is decided.

Mr. LeClair asked staff, if they postponed the case, would they be able to get a reading from City counsel in regards to this question.

Mr. Houston said they could do that.

Mr. Dookran asked if the Board is within their legal rights to table the case, if the applicant is present.

Mr. Varley said the Board always has the right to table a case.

Mr. Dookran said they need a basis to table on.

Mr. LeClair said the basis would be to seek a legal opinion from City counsel.

Mr. Houston said another option is to hold the public hearing tonight. The Board may not be able to make a decision and will need to table at that point, but they have a legal right to move forward with the case. Both parties agree with moving forward.

Mr. Weber said that is a better option.

Mr. Robbins asked, once they accept the case, how many days do they have to make a decision?

Mr. Varley said 65 days.

Mr. Robbins asked if Attorney Sokul had anything to say.

Mr. Sokul said he has two things to say. First, the nature of the appeal of Carter Falk's decision relates to whether the applicant has provided sufficient programs and facilities to qualify as elderly housing under Nashua's zoning ordinance. If the Zoning Board comes back and says the applicant has not provided sufficient services, the applicant would rectify this by providing additional facilities and services within the interior of the buildings as they are already designed. He does not see that as requiring major modifications the site plan; he can't guarantee that or predict what the ZBA is going to say. Secondly, the Board is well within their legal rights to proceed. It is his opinion that the Board is obligated to proceed, and at least take the step to decide whether the application is complete, and if not, specify a reason. He does not think they can just table the application at this point.

Mr. LeClair asked staff, if the Board hears the case tonight, and the variance causes a change to the plan, will the applicant have to restart the process, or can they change the plan while it is going through the Planning Board process?

Mr. Houston said he supposes it could. He said they don't know what is going to happen until they hear the testimony tonight, whether the Board approves, denies, approves with conditions or tables, or they might want more information. Both the applicant

and the abutters wish to move forward, so this would be a prudent choice.

Mr. LeClair said he just wants the applicant to understand that once the Board accepts jurisdiction on the application, the clock starts.

MOTION by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. LeClair

MOTION CARRIED 7-1

Attorney John Sokul, Hinckley Allen

Mr. Sokul introduced himself as representing the applicant, Granite Green Investment Partners. He said also with him tonight was James Prieto, principle in Granite Green, and Chad Branon, civil engineer with Fieldstone Land Consultants. This project has generated quite a bit of interest and attention by City administration, City staff, abutters and others.

James Prieto, Granite Green Investment Partners, Bedford, NH

Mr. Prieto thanked Chairman Varley and the Board for hearing the case this evening. Right now they have a 2.35-acre lot on which they are proposing to demolish the existing house and develop elderly housing. He is looking to have an 18-unit elderly housing development, located on a private driveway. Each unit falls within the elderly housing ordinance in being less than 1,000 square feet; there will technically be 997 square feet per unit. It is single-story living designed for the 55+ population. The units will be open concept with limited stairs. As the residents age, they will want to stay in these units. The Master Plan engages the elderly community with the City of Nashua. This location is a stone's throw to Greeley Park. Residents could walk to Jeannotte's and several churches. This project will enable community members to have access to healthcare downtown or access to highways. Each unit will have a single car garage and driveway space for the residents to park. There will be four buildings of four units and a duplex with an attached community center. The elderly housing ordinance requires the community center to have 15 square feet per unit, which would be 270 square feet; they are proposing an 800 square foot community

center. Educational programs and screenings will be provided to residents.

Chad Branon, Fieldstone Land Consultants, Milford, NH

Mr. Branon said the project consists of 2.35 acres of land with approximately 112 linear feet of frontage along Manchester Street. The property is zoned "RA" Urban Residence and the minimum lot size in this zone is 7,500 square feet with 60 feet of frontage. As Mr. Prieto said, this project does propose to raze the existing house and associated site improvements, and to construct five elderly housing buildings comprising 18 units, and an 800 square foot community center. The proposed units are 997 square feet in size, and each unit will have a single car garage and exterior parking space in front of the garage. The development will be serviced by a 24-foot wide private road which will be approximately 595 linear feet in length and will terminate in a hammerhead-style turnaround. The development will be serviced by Pennichuck Water, municipal sewer, natural gas and underground utilities. Lighting on the site will be provided by nine pole-mounted downcast lights that conform with City regulations. Existing stormwater on the site generally flows from south to north and drains into the municipal system along Manchester Street. This proposal will collect and treat all stormwater runoff generated from the project. The stormwater will be collected via drainage swales, closed drainage systems, and leaching catch basins. The new roadway will aid in capturing all of the runoff in collecting it, as will a number of diversion swales. All stormwater from the site will be conveyed to stormwater management practices where qualitative and quantitative mitigation will occur. This proposal meets all City requirements for stormwater. To touch on the process, and the number of continuances they have requested with this project; the continuances were requested due to the fact that they were working diligently with City staff on the design of this project. They understood there was some opposition and interest, and they wanted to make sure they came before the Board with a project that met all of the regulations.

Mr. Sokul pointed the Board members to a plan which showed building elevations, or what the project will look like from Manchester Street. From Manchester Street looking down the driveway, it's really going to look like two single family houses from the street. They knew that blending this development in with the character of the existing neighborhood was going to be an important consideration. The architect for the project is

Matt Piekarski, Envisionary Lines LLC. The site has been designed as a low-profile, low-impact, New England style elderly housing. The project will be market rate. The units will be owned. It's really going to be marketed to 55+ that want to downsize. The 55+ population make excellent neighbors; they want to be part of community. He said he thinks this a perfect location for a project like this. It is primarily a single-family home neighborhood, but there is a mix of other uses such as churches, an apartment complex, and duplexes across the street. This use is expressly allowed under the ordinance provided that certain criteria are met. Regarding site plan review requirement #1, if you look at different places in the Master Plan, one section recognizes the aging population of Nashua and the need for additional elderly housing. If you go to the Residential Zoning Recommendations section of the Master Plan, the master plan states, "Due to the likely increase and demand for elderly housing, both for independent living and managed care facilities, it is recommended that the zoning ordinance be examined and revised, if necessary, to ensure that adequate opportunities to develop elderly housing are available." This is especially important, given the projected increase in the senior population over the next 10-20 years. Other parts of the Master Plan recognize that infill development is going to be the primary form of development going forward for Nashua. The zoning ordinance implements the Master Plan provisions. If you look at the elderly housing section of the ordinance, it also states that it recognizes that exclusive zoning, for ages 55+, promotes the general health and welfare. They believe the project as designed is entirely consistent with the City's Master Plan. Regarding site plan requirement #2, the project complies with all applicable requirements of the zoning ordinance. The project provides 51% open space; a single family residential home built in this district would require 50% open space. Regarding site plan requirement #3, they don't believe there are any nearby buildings with special, unique architectural characters; that said, a lot of time, detail and attention has been given to the aesthetic treatment of this project. They believe it's well designed and fits in with the character of the residential neighborhood. Regarding #4, the ability of the development to coexist with surrounding uses, the use will be a residential use in a residential neighborhood. A lot of time and attention has been given to this project to minimize any impacts on surrounding or abutting properties. The level of review by staff has been rigorous. This type of project is a low traffic generator. Sight distances have been reviewed by Wayne Husband of the Traffic Department. There is a stockade

fence on the north side of the property that will be completely replaced with a new stockade fence. Drainage will remain on site. There are some steep slopes, but the post condition will be better than pre-conditions because of stabilizing they will do in accordance with a geotechnical engineer. Regarding #5, the project meets all zoning and density requirements.

Mr. Branon said as part of the site plan package, they were required to submit a Traffic Impact Threshold Worksheet. When they completed the worksheet for the project, they found that this development did not come close to reaching any of the thresholds published by the City. The Institute of Transportation Engineers Trip Generation manual, 8th Edition, handles senior adult housing under land use code 252. Using the IT manual, an 18-unit senior adult housing development would only generate 2 trips per hour during the AM peak hour. During the PM peak hour, the IT manual yields that it would generate 3 trips per hour. The threshold for requiring additional studies is 75 trips per hour. For the peak hour of the development, the IT manual shows that project will generate 1 trip per hour during the AM peak hour, and 2 trips per hour during the PM peak hour, and the City threshold for this criteria is 100 trips per hour. Using the IT manual they also calculated that the development would be expected to generate 63 trips during a 24-hour period, and the City threshold for this criteria is 1,200 trips. This is supported in Mr. Husband's email dated December 13th. The entrance of the site has been designed to exceed safe sight line design recommendations. This was also touched upon on Mr. Husband's December 13th email. The project provides for adequate parking for residents and visitors and the proposed roadway width is 24 feet. The turnaround area has also been signed off on.

Mr. Varley asked how they calculated 63 trips during a 24-hour period.

Mr. Branon said the IT manual publishes data sheets for each condition, and break it down into a per unit number. It is use-based.

Mr. Dookran asked how the thresholds that trigger a traffic impact report are established.

Mr. Branon said that is an excellent question. The thresholds are published by the City and are on the City's worksheet, so he

cannot answer how those came to be. They are simply following the worksheet published by the City.

Mr. Dookran said the threshold numbers are very high and most projects in the City do not exceed them. He asked if Mr. Branon had a sense of what types of traffic numbers would concern the Board.

Mr. Branon said a study would need to be done on Manchester Street to determine what the base traffic flows are, in order to make a real evaluation. What he can say for sure is that this use is an off-peak use.

Mr. Varley said the Board might have further questions for the engineer unrelated to traffic. He asked if Mr. Sokul could go through the remainder of the site plan criteria. He asked Mr. Sokul to consolidate some of his points regarding the site plan approval criteria.

Mr. Sokul said he will talk about most of the engineering issues right now. He said another point of concern is at the south side of the site, there are some steep slopes. It is a concern that has been raised by abutters and it is something the applicant has paid a lot of attention to. Mr. Branon will speak regarding the grading and erosion plan.

Mr. Branon said a lot of thought and consideration has been given to slope design for this project. The existing slopes in this area range from 3:1 to 1:1, which is a horizontal to vertical inclination. Due to the geometry and topography of the site, the proposed development and construction will require some grading along the southern slope. The design of the slope consists of a maximum grade or slope inclination of 2:1. The original design specified a North American Green straw coconut fiber erosion control mat, to be installed over the entire slope surface with lime and fertilizer seeding. Jeanne Walker asked that the applicant consult with a geotechnical engineer on the slope design and provide documentation that the design has been approved. To address Ms. Walker's concerns with their latest submission to the City, the applicant agreed to have the design reviewed and approved by a geotechnical engineer prior to construction commencing. This is indicated on note 31, page 5, sheet SP1, of the plan set. Ms. Walker was satisfied with this note as represented in her December 1st letter. However, understanding the concerns of abutters, the applicant chose to proceed with consulting a geotechnical engineer. They contracted

with HTE Northeast Inc. to review their design. They ran a slope stability analysis and recommended that the slope of 2.5:1 inclination or steeper be armored with a NHDOT Class C stone. To address this recommendation, they recently revised the site design. He provided handouts to the Board. They are proposing to armor a good portion of the slope on the southern side of the site. THE's letter dated January 11, 2017, addresses this modification and states that these slope treatment designs are considered to represent suitable methods for slope stability and appropriate surface erosion control. The proposed Class C stone stabilization will provide long-term stabilization in excess of the existing vegetated slope. In other words, their design is better and more stable than what exists there today.

Mr. Dookran asked if there are signs of slope failure at the site today.

Mr. Branon said in his discussions with the geotechnical engineer, he indicated that it is a very sandy soil on site and the existing slopes are approaching a 1:1 grade. There will likely be slope failure on site once the vegetation reaches the end of its life cycle.

Mr. Dookran asked if potential slope issues will be worsened by the amount of runoff coming from Edith Ave.

Mr. Branon said there was no inference of that and he did not witness any erosion issues from drainage when he was on site. If there was a good amount of runoff that came off Edith Ave, their proposal for slope stabilization would be more appropriate than what exists right now.

Mr. Dookran said there is evidence of runoff on Edith Ave. He asked if the grading on the new plan is the same as the original.

Mr. Branon said yes, exactly the same.

Mr. Dookran asked where the slope is flatter than what exists there today.

Mr. Branon said behind parcel 59-174 and 59-159.

Mr. Dookran asked what Class C stone looks like.

Mr. Branon said it is based off of a sieve analysis. It could look like a standard riprap slope, with an average diameter

stone around 6 inches. It can be up to 12 inches in diameter but only 10% of the matrix can be made up of stones that size. The vegetation will ultimately come through and will turn it into a green area.

Mr. Dookran said the riprap goes up to the back of Building 4 and the community center. Will this be an issue in performing maintenance on those buildings?

Mr. Branon said he did not believe so.

Mr. Dookran said this might be an aesthetic issue for future occupants and neighbors on the north side.

Mr. Branon said they will be installing a brand new stockade fence. Ultimately, the area will be vegetated over time.

Mr. Weber asked if the buildings will be slab on grade or will they have a basement.

Mr. Branon said they are going to have a basement but they designed foundation drains into the project which run along the back of the buildings and enter the two infiltration basins at the intersection of Manchester Street.

Mr. Weber asked, besides the drains, what other preventative methods are you using to ensure water doesn't get in between the footing and foundation wall and into the basement.

Mr. Branon said he is not the person designing the building but standard practice is to apply coating to the exterior of the foundation to prevent water penetration. This would probably be reviewed during the building permit process. The applicant will do whatever they need to do to ensure the buildings are watertight.

Mr. Weber said in a previous project, abutters' homes were flooded because the contractor did not take the correct steps to prevent this from happening. He said he has concerns with water being brought right to Building 4.

Mr. Branon said they are proposing a diversion swale at the base of that slope which will divert into a stormwater management system.

Mr. Sokul said, regarding offsite drainage, the site has been overdesigned from a stormwater management perspective.

Mr. Branon said the stormwater design exceeds City requirements for mitigation. This project proposes to employ a number of short-term construction-related practices that will aid in stabilizing the site and prevent erosion and sedimentation during the construction phase. This includes but is not limited to the use of erosion control blankets, stone, silt fencing, stone check dams, silt sacks, sediment filters, gravel construction exit, slope tracking and State recommended seeding practices. Long-term practices that will aid in maintaining water quality include vegetated swales, outlet protection, catch basin sumps, oil debris hoods and stormwater management components. The infiltration practices will mitigate the quality and quantity of runoff leaving the site, ensuring that there will be no increase in the peak rate or volume of runoff exiting the property. There is a built-in factor of safety of over 6, far exceeding any local requirement. The design utilizes an infiltration rate of 3 inches per hour. Ultimately, they are capturing, collecting and mitigating all runoff. Ms. Walker has asked for the plan to specify the leach basins that have a concrete bottom so that they can be maintained, which they will certainly revise.

Mr. LeClair asked where the catch basins are on site and the general configuration of depth and what's around them.

Mr. Branon said there are two distinct watersheds for this project. There is a watershed that comes off of Edith Ave and runs through the site. There is another watershed that runs toward Manchester Street. Their project is designed to capture all of the runoff from all of their improvements and convey it to stormwater management practices. He referred to the plan to demonstrate catch basin locations.

Mr. LeClair asked what the boundary between the southeast basin and the abutter looked like.

Mr. Branon said there is an existing hedgerow of trees which they will maintain. They are proposing significant landscaping around the stormwater management on the front end of the site. The basins are about 4-6 feet in depth.

Mr. LeClair asked for clarification on the proposed fencing.

Mr. Branon said there is an existing stockade fence along the northern boundary that will be replaced. They are not proposing

to do anything on the southern side. From the top of the slope to the property line is 16-18 feet in elevation, so those properties are much higher than their site.

Mr. LeClair asked if the drainage that comes off of the buildings to the north of the site does not make it off the property, but is brought back to Manchester Street.

Mr. Branon said that is correct.

There was a 5-minute recess.

Mr. Varley requested that the applicant finish the presentation in consideration of the lateness of the hour.

Mr. Branon said they provided a detailed lighting plan for the project. The plan will consist of installing 9 lantern-style lights that are 14 feet in height and downcast or dark sky compliant. The plan meets Article IX and will not have an impact on abutting properties. A landscaping plan was also provided and it conforms to the requirements of Article XXVII. Although the project doesn't require buffering, they will be installing a 6 foot fence on the northern boundary of the site as well as landscaping along the frontage of the property.

Mr. LeClair asked if parking could be addressed.

Mr. Branon said each unit will have two parking spaces. The land use code requires a minimum of 1 space per unit, or a maximum of 1.9 spaces per unit. They are proposing 41 spaces which exceeds the requirement, because the Fire Department had concerns with on street parking.

Mr. LeClair asked if there is capability on site for more parking.

Mr. Branon said they could certainly add more parking but this design is appropriate for the use.

Mr. Robbins asked how the plan to post for "No Parking."

Mr. Branon said they will be posting "No Parking" along the street.

Mr. Robbins asked, if the Board decided a 28-foot wide road was more appropriate, how would this affect the site?

Mr. Branon said they could accommodate a 28-foot wide road. However, they feel it would be an unnecessary impact and create a condition that is not warranted.

Mr. LeClair asked how snow will be removed from the site.

Mr. Branon referred to the plan to describe snow storage areas on site. He said there is adequate room on site to address snow storage, and drainage would be conveyed to stormwater management practices.

Mr. Dookran asked if the proposed crosswalk on Manchester Street would be considered midblock.

Mr. Branon said he thinks it probably would be. It is located on the plan because it was requested during review of the project.

Mr. Sokul addressed the remaining site plan criteria. Criteria #6 has been addressed; #7, the project will be served by municipal water and sewer and there will be no impact on schools; #8, the plan does not have any significant historical natural feature, but the site does have several pine trees that will be removed; #9 and #10, have been addressed; #11 has been addressed; #12 has been addressed; #13 has been addressed; #14 is not applicable; #15 has been addressed; #16, directional and "No Parking" signage will be on site, and any required permits for signage will be obtained; #17 has been addressed; #18, there are no hours of operation, it is a residential project. They are requesting two waivers, one for street width, and one to allow the private street to have bituminous concrete curbing instead of granite curbing. There is a moratorium in effect on street cutting into Manchester Street right now. He requested that the Board consider allowing a permit period longer than the standard one year that would account for that permit moratorium. They are going to seek relief from that permit moratorium, but if it is not granted, they would need an extension of the permit period.

Mr. Reppucci asked, if this were not an elderly housing project, would it not be allowed on the site?

Mr. Sokul confirmed this.

Mr. Reppucci asked what standards they have to comply with; is it State law?

Mr. Sokul said there are State laws but it is Nashua's regulations that require significant services and facilities benefiting the elderly. This has been the discussion with the zoning administrator. This project provides more services and facilities than any other elderly housing project approved by this Board.

Mr. Reppucci asked how the 55+ age restriction will be applied. If a 55+ man wants to occupy a unit, won't his family live there too?

Mr. Sokul that will be determined by the condominium documents which have not been finalized. They can't be rented to just anyone; there are State standards in place to prevent and police this. It is part of the ordinance and it would also be part of the condo documents.

Mr. LeClair asked if the basements in the units will be unfinished.

Mr. Prieto said yes, the basements are to be unfinished and used for storage purposes. That is the way the ordinance is written.

Mr. LeClair asked how trash will be handled and will there be a recycling component.

Mr. Prieto said there will be private curbside pickup. They can look into adding a recycling option.

SPEAKING IN OPPOSITION OR CONCERN

Attorney Jocelyn Beiswenger, Sheehan Phinney

Ms. Beiswenger said she is representing the Wingate's, Zagrodny's, Kouchalakos' and Bianchi's. She said it is their contention that the site plan does not meet a number of the site plan requirements. Regarding traffic, Manchester Street is a busy street and there will be a considerable amount of traffic added. This project is being presented as an elderly project 55+, so many of the residents will still be working which will contribute to peak traffic. This proposed, dense 18-unit project is not a coexisting use with a neighborhood that is primarily single-family homes. The development will take away from the desirability of the neighborhood and have a negative effect on property values. While the project technically meets setback requirements, the side setback is only 10 feet, which is

extremely close to the property line. They believe a variance is required to exceed more than one principal structure on the lot. Her clients are not completely opposed to development of the property, but it is an extremely dense development considering the neighborhood.

Mr. Varley asked if Ms. Beiswenger conducted an independent traffic count.

Ms. Beiswenger said they used the same data that the applicant used in calculating their traffic count. They came up with very similar numbers as the applicant.

Mr. LeClair asked if she had a chance to review demographics other 55+ developments.

Ms. Beiswenger said she had not.

Mr. Robbins asked for an explanation of the double-frontage issue.

Ms. Beiswenger said frontage is on Manchester Street, but residents will be entering and exiting the middle of the property.

Mr. Robbins asked if the developer were willing to erect more than a 6-foot fence, would her clients be amenable.

Ms. Beiswenger said additional buffering would provide additional comfort to abutters in consideration of the 10-foot setback.

Ian Atwell, 118 Manchester St

Mr. Atwell said adding to the already high traffic load that is already on Manchester Street is a concern. He is also concerned that the density of the development is not consistent with the character of the neighborhood. He is also concerned with the steepness of the slope and aesthetics of the riprap.

Traci Johnson, 3 Edith Ave

Ms. Johnson said one of her major concerns is the steepness of the slope (she provided photographs to the Board.) They were told there was a lot of fill used to level the land and disturbance to that land below is of great concern. She said she

also believed that Balsams Ave should comply with public road standards, creating a rear setback rather than a side setback. She said none of the developers have consulted with the abutters regarding this project.

Tracy Krulikowski, 13 Danbury Rd

Ms. Krulikowski said she is not opposed to change but this is 18 units and 41 parking spots on 2.35 acres. It is not consistent with the neighborhood.

Holly Countie, 1 Edith Ave

Ms. Countie said she has lived at her property for 20 years and has seen development along the street that kept in character with the neighborhood. This development does not look like their neighborhood. She has concerns about the residents themselves, as this is a very narrow piece of land they will be wedged into. Manchester Street is very busy and dangerous to walk on. She said she believes the closest bus stop is on Charlotte Ave, not on Manchester Street. She also questioned whether there is demand for a project of this scope in this neighborhood.

Mark Littlefield, 120 Manchester St

Mr. Littlefield said this project is out of character with the neighborhood. The Hayden Green development does not abut any single-family homes. The largest abutter of the Stinson Park development is a cemetery. The impact to abutters is minimal, unlike this proposed development. This development is going to devalue properties. He said tonight was the first time he saw an elevation plan of the rear of the buildings, which will be 10 feet from his property line. The building envelope and zoning requirements have been exploited. It also appears that soils will be saturated with runoff on both sides of his property. Regarding tree maintenance of the 11-12 pines Mr. Branon mentioned, he has been the only one to maintain them. The proposed drainage culvert in this area will damage the root system, which creates a safety issue for his house. He provided photographs of the trees. Traffic is also a big concern; this development is in the middle of two blind curves. There also does not seem to be enough parking for the number of residents and potential guests. This may affect the ability of emergency vehicles to enter the property.

Brenda Wingate, 15 Sherman St

Ms. Wingate said she is a registered nurse and has a few concerns on both ends of the spectrum. The density of the project is not keeping in character with the neighborhood. Taking a left onto Manchester Street is a risk. Elderly residents trying to maneuver in traffic is also a big concern. There have been tragic accidents in this area. There is no sidewalk on that side of the street, and crossing the street would not be safe, even with a crosswalk. The neighborhood ranges from newborns to age 90, and they like that mix of people. This project is proposed under the guise of senior housing.

Bill Kouchalakos, 9 Danbury Rd

Mr. Kouchalakos said he was representing his parents, who live at 9 Danbury Road. His parents spend a lot of time in their sunroom at the back of the house, and now they will be looking at a wall and large building. He read an excerpt from Mr. Kouchalakos' letter, which he provided to the Planning Department. He mentioned that he himself is in the development business and he has purchased 55+ properties that were defunct, and they were able to alter the condominium documents. Condominium documents are not set in stone.

George Eftimiou, 6 Coleridge Rd

Mr. Eftimiou said his in-laws, the Kouchalakos', live at 9 Danbury Road. The Zagrodny's of 11 Danbury Rd could not attend the meeting tonight. He read an excerpt from the Zagrodny's letter, which had been provided to the Planning Department. He said he also has concerns with the effect the development will have on his in-laws' home. The potential pool of buyers will be limited if this development goes in. He also has concerns with their basement flooding due to runoff from the slope. He asked what the proposed build-out of the project is.

Mr. Varley said they will ask the applicant.

Gary Wingate, 15 Sherman St

Mr. Wingate said John Bianchi and Sam Kouchalakos were not able to attend the meeting. The abutters were frustrated with the postponements of the last few meetings. He said he and his wife have lived at their property for 32 years. They have made many improvements to their property, as have others in the

neighborhood. They understand the Gimbbers' desire to develop the property, but the proposed plan is out of character with the neighborhood. The only reason the developers are allowed this type of density is due to the elderly housing designation. Attorney Sokul's letter to Carter Falk, which includes a list of required elderly housing criteria, includes activities that people do every day, such as cards, bingo, movies. The letter indicates there will be regular educational presentations, and that this meets criteria for both educational programming and counseling services. Even though the titles are different, the text is the same. Criteria #5 indicates the residents will receive snow plowing and yard maintenance, which is typical to any housing development. He voiced concerns with density and the side setback issue. Jeanne Walker's November 4, 2016 letter indicates that private roads must be developed to City standards. On November 17, 2016, the Planning staff indicated that there should be posted as a "No Parking" lane, as the Fire Marshall had concerns about the width of the road. He suggests that the waiver not be granted because guests will need somewhere to park. The road should be 28 feet in width and have on-street parking; this is usual and customary. In addition, Attorney Sokul indicated that as long as the Board of Directors approves a resident, they could stay. This could lead to anybody being able to rent. Rentals are transient in nature, which is out of character with a single-family neighborhood. He has concerns about a lack of a pet policy for the development. He is also concerned about the pine trees. He also voiced concerns with speeding and traffic density along Manchester Street. He believes this project should have to comply with regular zoning requirements for density, and not what is permitted through the elderly housing classification. He said the Planning Board should deny the project.

SPEAKING IN FAVOR

Cheryl Kisiday, 3 Beverlee Dr

Ms. Kisiday said she has been real estate for 24 years. She wrote a letter but it didn't make it into the packet; she provided a copy of the letter to the Board. She feels that the project is a needed development and it complies. In Nashua, residents who want to downsize are often forced out of town. Hudson and Litchfield sell more elderly housing units than Nashua, which has a much higher population. One issue is that elderly housing units in Nashua are under 1,000 square feet.

Mr. Reppucci asked if Ms. Kisiday is a realtor associated with the transactions of the project.

Ms. Kisiday said no, she is simply a concerned member of the neighborhood.

SPEAKING IN OPPOSITION OR CONCERN - REBUTTAL

Mr. Sokul read into the record a letter from Yvette Berthelotte of 29 ½ Raymond Street in support of the project. A copy was provided to the Board.

Mr. Sokul said they have heard a lot of testimony from abutter tonight. They asked for a continuance so that they may respond to abutters at the next meeting.

Mr. Varley said given the lateness of the hour, it may make sense to hold off on any deliberations. If they do as the applicant has requested, they would leave the public hearing open for now and give the applicant the opportunity to delay their response.

Mr. Robbins said, to be consistent, they ought to get through the applicant's rebuttal and allow for a member of the public to respond.

Mr. Reppucci asked if the Board would consider having Attorney Sokul rebut followed by a member of the public's response, close the public hearing, and then allow both parties to submit any final information in writing to the Board. That way, they wouldn't have to open the public hearing again.

Mr. Varley said that is reasonable.

Mr. Sokul said that is fine with him. He said one of the issues that was brought up was the ITE trip generation. The description of senior adult housing in the ITE manual says, "These developments may include limited social or recreational services. However, they generally lack centralized dining and onsite medical facilities. Residents in these communities live independently, are typically active, requiring little or no medical supervision, and may or may not be retired." Regarding the suggestion that the applicant has manipulated the zoning ordinance, the definitions for lot frontage, side yards and rear yards are set in the ordinance. The front lot line is described as being off of a public right of way, and the only public right

of way is Manchester Street. It is going to be a single parcel. Regarding the appropriateness of the use, there was a 2004 court case which stated that site plan review is limited, and the Planning Board does not have the right to deny a project just because they feel it is not an appropriate use for the land; that is a zoning issue. This project complies with the zoning ordinance. Other elderly housing projects have been approved in the City with far less services than what this project is providing. The applicant has proposed above and beyond what used to be required by federal law, regulations which have since been relaxed. He said he was told by the applicant that there is a bus stop near the site. The neighborhood is suited for the elderly housing use. Regarding concerns about the slopes and trees, this was discussed at length during their presentation. Regarding traffic, they are only generation 3 trips an hour. It hasn't been decided if there will be an opportunity to rent the units, but all occupants will be 55+, not just the owners. They tried to define the services and facilities in a general sense, consistent with legal requirements for a project that is going to be sold to 18 different unit owners, who should be able to choose what types of services they want. There is disagreement as to whether this is an appropriate use for the neighborhood, but this project meets all of the requirements under the zoning ordinance.

Mr. Varley invited a member of the public to speak in response.

Mr. Wingate said the Board needs to consider the ten abutters who will have to look at a new building 10 feet from the property line. Right now, there is a property for sale on Manchester Street, 1.32 acres next to Greeley Park, which could be a potential for elderly housing. It is getting to a point where developers are taking advantage of the elderly housing ordinance. The Board and the City need to decide what are true services provided to the elderly and true density. This is not an elderly housing project, this is regular zoning. He sees this as a turning point.

Mr. Houston said the rock/riprap slope may not be considered open space, so they would need to get an opinion from Mr. Falk. That would put the applicant over the open space requirement which may require a variance. The rear and side elevations were not submitted with the application and this is the first time the staff has seen those items just introduced tonight and would like to review and provide comments to the board at next meeting.

Mr. Varley closed the public hearing. He said the Board would like to give the applicant and members of the public an opportunity to submit further information in writing. The decision portion of the meeting will be at the meeting to which it is tabled, but the Board will not be taking further public testimony at that time.

Mr. Dookran asked, should additional information be accepted in writing, does the Board have to reopen the public hearing to accept that information?

Mr. Varley said he did not think they needed to reopen the hearing to accept the written testimony.

A member of the audience asked what the deadline would be for written submissions.

Mr. LeClair would recommend tabling the meeting to the February 16th meeting.

(Mr. Wingate spoke but it was inaudible.)

MOTION by Mr. LeClair to table New Business - Site Plan #3 to the February 16, 2017 meeting, and to allow additional written comments to be submitted provided they are submitted up until February 8, 2017.

Mr. Reppucci said it should be noted that the written comments should be limited to the scope of what the abutters and Attorney spoke to.

Mr. LeClair amended his motion to read as follows:

MOTION by Mr. LeClair to table New Business - Site Plan #3 to the February 16, 2017 meeting, and to allow additional written comments to be submitted provided they are submitted up until February 8, 2017. Written materials submitted by the applicant are to respond to issues brought up by the public, and written materials submitted by the public are in final rebuttal to those responses.

SECONDED by Mr. Reppucci

MOTION CARRIED 8-0

OTHER BUSINESS

NCPB

January 12, 2017

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1. Review of tentative agenda to determine proposals of regional impact.

MOTION by Mr. LeClair that there are no items of regional impact.

SECONDED by Mr. Robbins

MOTION CARRIED 8-0

DISCUSSION ITEMS

None

MOTION to adjourn by Mr. Kelly. Meeting adjourned at 12:34am.

APPROVED:

Adam Varley, Chair, Nashua Planning Board

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Prepared by: Mindy Lloyd

Taped Meeting